

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

SETTLEMENT AGREEMENT  
AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Settlement Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and among RICHARD P. ARNOLD and wife, CHRISTIE ARNOLD (collectively, the "Plaintiff"); T & R BUILDERS OF NORTH CAROLINA, INC., ("T & R"); KEVIN W. FISHER d/b/a FISHER CONSTRUCTION ("Fisher"); R. HAYWOOD PITTMAN, II d/b/a PITTMAN SOIL CONSULTING; ("Pittman"); ONSLOW COUNTY ("Onslow"); ROBERT MCCABE ("McCabe") in both his official and individual capacity; JAMES TEACHEY ("Teachey") in both his official and individual capacity; and JON HARRISON ("Harrison") in both his official and individual capacity and the Department of Health and Human Services ("DHHS").

W I T N E S S E T H:

WHEREAS, that Plaintiff filed a complaint against T & R in the Onslow County Superior Court, File Number 12-CVS-2748 (the "Complaint"), which Complaint arose out of certain alleged negligent acts or omissions by T & R; and

WHEREAS, that in the Complaint, Plaintiff sought to recover monetary damages as a result of the construction of the house located at 107 Sunny Point Drive in Sunny Point Subdivision, Richlands, Onslow County, North Carolina (the "Residence"), namely the sanitary septic waste system; and

WHEREAS, T&R filed a third-party complaint against the remaining Defendants; and

WHEREAS, that the parties hereto desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which are, or might have been, the subject matter of the Complaint, upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. RELEASE AND DISCHARGE.

(a) In consideration of the payments set forth in Section 2, Plaintiffs, Cross-Claimants, if any and the Third-Party Plaintiff hereto do completely release and forever discharge each Defendant, Third-Party Defendant and all other

parties against whom any claims have been brought in this action from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, rights, damages, costs, losses or services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory of recovery, which any party now has, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of, or which are the subject of the Complaint (and all related pleadings) including, without limitation, any and all known or unknown claims which have resulted or may result from the construction of the Residence and approval, permitting and installation of the on-site wastewater system for the Residence.

(b) This release and discharge shall also apply to each party's past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest in both their official and individual capacities, and assigns and all other persons, firms, government agencies or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

(c) This release shall be a fully binding and complete settlement among the parties hereto and their respective heirs, assigns and successors.

(d) Each party acknowledges and agrees that the release and discharge set forth above is a general release. Each party expressly waives and assumes the risk of any and all claims for damages which exist as of this date, but of which that party does not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect that party's decision to enter into this Settlement Agreement. Each Plaintiff and Third-Party Plaintiff further agrees that, if applicable, that party has accepted payment of the sum or sums specified herein as a complete compromise of matters involving disputed issues of law and fact. That party assumes the risk that the facts or law may be other than they believe. It is understood and agreed to by the parties that this settlement is a compromise of a doubtful and disputed claim, and the payments are not to be construed as an admission of liability on the part of any party, by whom liability is expressly denied.

2. PAYMENTS. In consideration of the release set forth above, the parties hereto agree to pay to the parties named below as follows:

(a) T & R shall pay to Plaintiff the total sum of Seventeen Thousand Five Hundred and 00/100 Dollars (\$17,500.00);

(b) Fisher shall pay to T & R the total sum of One Thousand and 00/100 Dollars (\$1,000.00);

(c) Pittman shall pay to T & R the total sum of One Thousand and 00/100 Dollars (\$1,000.00);

(d) DHHS on behalf of McCabe, Teachey, and Harrison, collectively, shall pay to T & R the total sum of Three Thousand and 00/100 Dollars (\$3,000.00); and

(e) Onslow County, on behalf of all other parties, shall pay to Judge James D. Llewellyn as Mediator, the sum of \$1992.20 for costs incurred as a result of the mediated settlement conference which took place on August 22<sup>nd</sup>, 2013.

3. ATTORNEY'S FEES. Each party hereto shall bear all attorney's fees and costs arising from the actions of its own counsel in connection with the Complaint, this Settlement Agreement and the matters and documents referred to herein, the filing of a dismissal of the Complaint, and all related matters.

4. VOLUNTARY DISMISSALS WITH PREJUDICE. Concurrently with the execution of this Settlement Agreement, counsel for the Plaintiff shall execute and file with the Court a voluntary dismissal of the Complaint with prejudice. Additionally, counsel for T & R shall execute and file with the Court a Voluntary Dismissal of all Third-Party claims with prejudice and all Cross-Claimants, if any, shall dismiss with prejudice any and all crossclaims filed herein.

5. REPRESENTATION OF COMPREHENSION OF DOCUMENT. In entering into this Settlement Agreement, each party represents that said party has relied upon the advice of his/her attorneys, who are the attorneys of his/her own choice, concerning the legal consequences of this Settlement Agreement; that the terms of this Settlement Agreement have been completely read and explained to the party by his/her attorneys, and that the terms of this Settlement Agreement are fully understood and voluntarily accepted by each party hereto.

6. WARRANTY OF CAPACITY TO EXECUTE AGREEMENT. Each party hereto represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein; that each party

has the sole right and exclusive authority to execute this Settlement Agreement and receive the sum specified in it; and that each party has not sold, assigned, transferred, conveyed or otherwise disposed of any claims, demands, obligations or causes of action referred to in this Settlement Agreement.

7. GOVERNING LAW AND FORUM SELECTION. This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of North Carolina and any litigation arising out of this Agreement shall occur, if at all, in Onslow County, North Carolina.

8. ENTIRE AGREEMENT AND SUCCESSORS IN INTEREST. This Settlement Agreement contains the entire agreement between the parties hereto with regard to the matter set forth in it and shall be binding upon and enure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

9. EFFECTIVENESS. This Settlement Agreement shall become effective immediately following execution by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals to this Settlement Agreement, all on the day and year so indicated beside their signatures.



(SEAL)  
RICHARD P. ARNOLD, Plaintiff

11/22/13  
Date



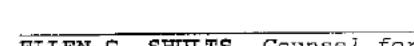
(SEAL)  
CHRISTINE ARNOLD, Plaintiff  
Christine  
Arnold

11/22/13  
Date



(SEAL)  
JASON R. HARRIS, Counsel for Plaintiffs

\_\_\_\_\_  
Date



(SEAL)  
ELLEN G. SHULTS, Counsel for Plaintiffs

\_\_\_\_\_  
Date

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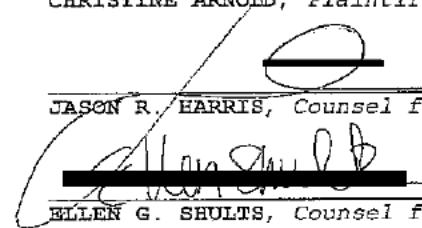
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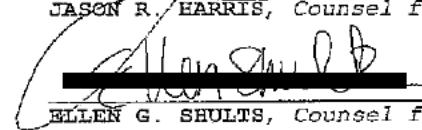
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(SEAL) \_\_\_\_\_  
RICHARD P. ARNOLD, Plaintiff \_\_\_\_\_ Date

(SEAL) \_\_\_\_\_  
CHRISTINE ARNOLD, Plaintiff \_\_\_\_\_ Date

(SEAL) \_\_\_\_\_  
JASON R. HARRIS, Counsel for Plaintiffs \_\_\_\_\_ Date  


(SEAL) \_\_\_\_\_  
ELLEN G. SHULTS, Counsel for Plaintiffs \_\_\_\_\_ Date  


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T & R BUILDERS OF NORTH CAROLINA, INC.,  
*Defendant/Third-Party Plaintiff*

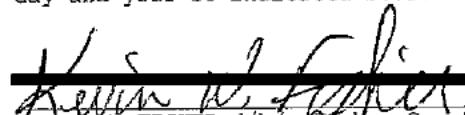
  
\_\_\_\_\_  
TAMMY G. BUTLER, President

12-13-13  
Date

  
\_\_\_\_\_  
C JASON HUMPHREY, Counsel for T & R

12/30/13  
Date

IN WITNESS WHEREOF, the parties hereto have hereunto set  
their hands and seals to this Settlement Agreement, all on the  
day and year so indicated beside their signatures.

  
~~Kevin W. Fisher~~ (SEAL)  
KEVIN W. FISHER d/b/a Fisher Construction  
Third-Party Defendant

9/30/13  
Date

  
~~Stephen C. Baynard~~ (SEAL)  
STEPHEN C. BAYNARD, Counsel for Fisher

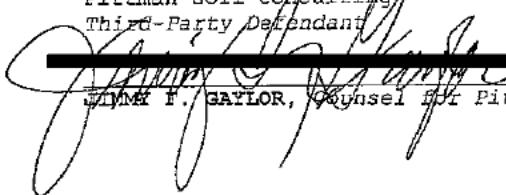
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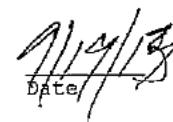
 (SEAL)

R. HAYWOOD PITTMAN, II/d/b/a  
Pittman Soil Consulting  
Third-Party Defendant

  
10813  
Date

 (SEAL)

JIMMIE F. TAYLOR, Counsel for Pittman

  
11/14/13  
Date

Julie B. Bradburn, Esq.  
Womble Carlyle Sandridge & Rice, LLP  
150 Fayetteville Street, Suite 2100  
Raleigh, NC 27601

Julie B. Bradburn

Attorneys for Third-Party Defendants, Robert McCabe, James  
Teachey and Jon Harrison (in their official capacities)

IN WITNESS WHEREOF, the parties hereto have hereunto set  
their hands and seals to this Settlement Agreement, all on the  
day and year so indicated beside their signatures.

Robert L. McCabe (SEAL)  
ROBERT MCCABE, Third-Party Defendant

19 Dec  
18 Dec 13  
Date

James Teachey (SEAL)  
JAMES TEACHEY, Third-Party Defendant

12/19/2013  
Date

Jon C. Harrison (SEAL)  
JON HARRISON, Third-Party Defendant

12/19/2013  
Date

(SEAL)  
L. Layton Long, Jr.  
Director, Environmental Health Section, DPH, DHHS  
On Behalf of DHHS

Date

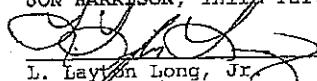
(SEAL)  
JOHN P. BARKLEY,  
Counsel for McCabe, Teachey, & Harrison at DHHS

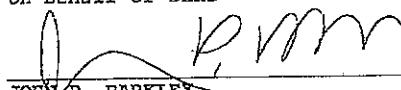
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(SEAL)  
ROBERT MCCABE, Third-Party Defendant      Date

(SEAL)  
JAMES TEACHEY, Third-Party Defendant      Date

(SEAL)  
JON HARRISON, Third-Party Defendant      Date  
  
(SEAL)  
L. Layton Long, Jr.  
Director, Environmental Health Section, DPH, DHHS  
On Behalf of DHHS

(SEAL)  
  
(SEAL)  
JOHN P. BARKLEY,  
Counsel for McCabe, Teachey, & Harrison at DHHS      Date  
12-20-13